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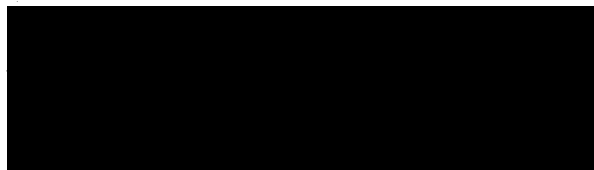
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: EAC-99-224-51436 Office: VERMONT SERVICE CENTER

Date: SEP 23 2004

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3)
of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, who affirmed his decision after the petitioner filed a timely motion to reopen and/or reconsider. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a garment manufacturer. It seeks to employ the beneficiary permanently in the United States as a sewing machine operator. As required by statute, the petition is accompanied by an individual labor certification, the Application for Alien Employment Certification (Form ETA 750), approved by the Department of Labor.

The director invalidated the labor certification based upon a finding that it had been procured by fraud or willful misrepresentation based upon a conviction of the petition's underlying labor certification application's signatory for fraud and bribery. The director then denied the petition because it was not supported by a valid labor certification.

On appeal, counsel submits a statement and a request for additional 60 days to provide an additional brief and/or evidence.¹ Counsel's request was dated September 13, 2002. More than two years have elapsed and the record of proceeding does not contain any additional evidentiary submissions or legal brief.

Although the director's decision advised the petitioner's counsel that an appeal was available, that information was in error. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv).

Among the appellate authorities are appeals from denials of petitions for immigrant visa classification based on employment, "except when the denial of the petition is based upon lack of a certification by the Secretary of Labor under section 212(a)(5)(A) of the Act." 8 C.F.R. § 103.1(f)(3)(iii)(B) (2003 ed.).

¹ Counsel for the petitioner is affiliated with Capital Law Centers, P.C., which is owned and operated by Samuel G. Kooritzky, who, along with three of his associates, was charged and convicted of fifty-seven felony violations of federal law: one count of conspiracy, fifteen counts of labor certification fraud, twenty counts of making false statements, twenty counts of immigration fraud, and one count of money laundering. *See* U.S. Department of Justice, United States Attorney, *News Release*, <http://www.oig.dol.gov/public/media/oi/sgkoooritzky.html> (last updated December 11, 2002). Mr. Kooritzky was subsequently expelled from practicing before the Department of Homeland Security (DHS), which includes the AAO, and the Immigration Courts and Board of Immigration Appeals (Board) on April 8, 2003. Since counsel's name is not on the most recent list of disciplined attorneys published by the Executive Office for Immigration Review (EOIR), however, he will be furnished a copy of this decision. *See* 8 C.F.R. § 292.1. *See also* Office of the General Counsel, *List of Suspended and Expelled Practitioners: The Rules for Professional Conduct*, <http://www.usdoj.gov/eoir/profcond/chart.htm> (last updated August 9, 2004).

Authority to invalidate labor certifications is delegated to CIS by DHS Delegation Number 0150.1(X), *supra*.

Since the director invalidated the labor certification, the petition was no longer supported by a labor certification from the Department of Labor. Consequently, this office lacks jurisdiction to consider an appeal from the director's decision.

ORDER: The appeal is rejected.